

ZONING BOARD OF APPEALS STOW, MASSACHUSETTS 01775

HEARING APPLICATION INFORMATION

All appeals, applications for special permit, petitions for variance or other petitions to the Board of Appeals shall be made on the form provided by the Board. All applicants/petitioners **must** comply with the following requirements.

APPEALS, VARIANCES OR OTHER PETITIONS

Information to be Submitted with Petition

1. All of the requested information **must** be provided when filing the petition with the Town Clerk. **WARNING:** If you have questions on the material required or on any other matter, **DO NOT FILE**. Once filed, the Board must, by law, hear the petition. If an incomplete petition is filed, or there is failure to supply the documentation required, it is very likely the petition will be denied. A denial will essentially double the time and cost involved. If there are questions prior to filing, ask the Board's secretary for either a meeting with the Clerk of the Board or a meeting with the full board for the purpose of requesting guidance. Such meetings will occur only on regularly scheduled meeting nights (see General Information).

2. **Three (3)** copies of a definitive certified plan must accompany the petition. It is to be drawn to scale and prepared in recordable form by an engineer or land surveyor registered in the Commonwealth of Massachusetts showing, as a minimum, all boundaries and their dimensions, existing and proposed structures or activities, wells, septic systems, driveways, parking areas and easements or rights of way. The approximate locations of all structures, wells and septic systems on all abutting properties shall also be indicated. *In the case of a request for lot line variance, state on application form Section 5 the variance(s) requested from the applicable lot line(s).*

3. A list prepared by the Assessors' office showing names and addresses of abutting property owners and abutters of those abutters whose property is within three hundred (300) feet of the property lines of the petitioner. Owners of property directly opposite on any public or private street(s) or way(s) as they appear in the Assessors' records shall be considered direct abutters.

4. The properly completed form, together with the required plan(s), fees and list of abutters, as detailed in paragraph 3. above, shall be filed in **triplicate** with the Town Clerk. It is strongly recommended that the Clerk of the Board of Appeals review the submission and sign the application prior to filing. One copy of the petition shall be retained by the Town Clerk, and the original and one copy will be forwarded to the Clerk of the Board of Appeals.

5. A **filing fee of \$100.00 plus a \$6.00 charge for each listed abutter** on the Assessors' list must be submitted with each petition.

Criteria for Favorable Decision

As set forth in Chapter 40A of the Mass. General Laws, the petitioner must be prepared to show that **all** of the following conditions can be met.

1. That there are circumstances relating to the soil conditions, shape or topography of such land or structures and especially affecting such land or structures, but not affecting generally the zoning district in which it is located.
2. That literal enforcement of the provisions of the ordinance or zoning bylaw would involve substantial hardship, financial or otherwise, to the petitioner or appellant.
3. That the desired relief may be granted without substantial detriment to the public good.
4. That the desired relief may be granted without nullifying or substantially derogating from the intent and purpose of such ordinance or bylaw.

SPECIAL PERMIT APPLICATIONS

Information to be Furnished with Application

1. All of the requested information **must** be provided before filing the application with the Town Clerk. **WARNING:** If you have questions on the material required or on any other matter, **DO NOT FILE**. Once filed, the Board must, by law, hear the application. If an incomplete application is filed, or there is failure to supply the documentation required, it is very likely the application will be denied. A denial will essentially double the time and cost involved. If there are questions prior to filing, ask the Board's secretary for either a meeting with the Clerk of the Board or a meeting with the full board for the purpose of requesting guidance. Such meetings will occur only on regularly scheduled meeting nights (see General Information).

Any application for special permit as set forth in the Stow zoning bylaws **must** comply with the following requirements in addition to those necessary for appeals, variances or other petitions as outlined above.

2. **Eight (8)** copies of an application and proposed site plan (except when otherwise specified by the Board) in a format acceptable to the Registry of Deeds, prepared by a registered professional engineer, architect or land surveyor, and a list of abutters with addresses as defined above, shall be submitted. Said site plan shall show and describe where applicable the following minimum data:

- a. All existing lot lines, easements, rights of way and other matters of record. Land use and ownership of abutting land, including land across the public road or private way from the site. A description and delineation of all zoning districts within 1,000 feet of the site perimeter.
- b. All existing and proposed buildings, structures, signs, parking spaces, driveway openings, driveways, fire lanes, service areas and other open uses.

c. All existing and proposed land features with contours at two-foot intervals (except when otherwise specified by the Board, water courses, ponds, streams, wetlands, soils by SCS type, ground water elevations, flood plains and proposed methods for handling surface and subsurface drainage and runoff.

d. All existing and proposed disposal facilities for sewage refuse and other waste.

e. All existing and proposed buffers and planting areas for screening purposes, walls, fences, outside lighting and signs.

f. All information with regard to the proposed use of any buildings or structures.

3. A **filing fee of \$150.00 plus a \$6.00 charge for each listed abutter** on the Assessors' list must be submitted with each application.

Requirements to be Met for Special Permit

The following points based on Chapter 40A of the Mass. General Laws shall be identified and factually supported on the application form and presented at the public hearing:

1. The particular type of use proposed for the land or structure, if any.

2. The conditions and character of operations of the proposed use which show that it will be in harmony with the general intent and purpose of the zoning bylaw and the zoning district in which it is located.

3. The nature of the proposed use in relation to both the general and specific provisions of the zoning bylaw governing that use and the district in which it is located.

GENERAL INFORMATION

POLICIES AND ADVICE

Any advice, opinion or information given to an applicant by any board member, the Building Inspector, Clerk of the Board or any other official or employee of the Town shall not be binding on the Board. Individuals are discouraged from appealing to any member of the Board prior to a public hearing.

TIME CONSTRAINTS

The Board of Appeals, under the provisions of Chapter 40A of the Mass. General Laws, is bound to the following specific time periods within which to hold the public hearing and to render a decision.

1. Variance - The public hearing must be held within 65 days, and a decision must be made and filed with the Town Clerk within 100 days of the formal filing of the petition with the Town Clerk. No decision is final until the 20-day appeal period has expired and the Town Clerk certifies that no appeal has been taken.

2. Special Permit - The public hearing must be held within 65 days of the filing of the application with the Town Clerk. The decision must be filed with the Town Clerk within 90 days of the public hearing. No decision is final until the 20-day appeal period has expired and the Town certified that no appeal has been taken.

3. Appeal from Unfavorable Action - The public hearing must be held within 65 days, and a decision must be made and filed with the Town Clerk within 100 days of the formal filing of the petition with the Town Clerk.

APPEALS FROM DECISIONS AND EFFECTIVE DATE OF ALL DECISIONS

Appeal Period from Board Decision

Any person aggrieved by a decision of the Board may file an appeal from that decision in Superior or Land Court within twenty (20) days of the Board's filing of the decision with the Town Clerk.

Effective Date of Decision

No decision taken by the Board shall become effective until

- a. The Town Clerk certifies that the 20-day appeal period has expired and no appeal has been filed, and
- b. A certified copy of the decision has been recorded with the Middlesex Registry of Deeds and indexed in the grantor index under the name of the owner of record, or is recorded and noted on the owner's Certificate of Title. A copy of the decision, properly certified as recorded by the Registrar of Deeds, shall be returned to the Town Clerk and to the Board of Appeals.

The applicant or petitioner is responsible for filing the certified decision with the Registry of Deeds and for the recording fees and return of a certified copy to the Board and the Town Clerk.

A copy of the certified decision is required by the Building Inspector before issuance of a building permit.

VALIDITY OF VARIANCE OR SPECIAL PERMIT

VARIANCE: A variance granted by the Board must be exercised within one year of grant. It may be extended for a period of six months if application is made prior to the expiration of the one-year period.

SPECIAL PERMIT: A special permit granted by the Board shall lapse within two (2) years unless substantial use or construction has commenced. In the case of a permit for construction, if construction has not begun by such date, except for good cause.